

**Special and Regular Meeting of Tuesday, April 8, 2008**

City Council Chambers, One Twin Pines Lane

**SPECIAL MEETINGS**

**CLOSED SESSION - 6:00 P.M.**

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation: One case - Claim of Schoening et al.: Marburger Road
- B. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: MMCEA and AFSCME
- C. Conference With Legal Counsel Pursuant to Government Code Section 54956.9(c) Initiation of Litigation: One Case

Attended by Councilmembers Dickenson, Feierbach, Wozniak, Braunstein, Lieberman, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil, Public Works Director Davis, Police Chief Mattei, Interim Human Resources Director Kirby. City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time, being 7:25 P.M.

**Terri Cook**

**City Clerk**

This meeting not tape recorded or videotaped.

**REGULAR MEETING –**

**CALL TO ORDER 7:33 P.M.**

## **ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Wozniak, Braunstein, Dickenson, Lieberman

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Police Chief Mattei, Finance Director Fil, Public Works Director Davis, Parks and Recreation Interim Co-Director Brunson, Interim Human Resources Director Kirby, Fire Chief Fry, Executive Assistant Stallings, and City Clerk Cook.

## **REPORT FROM CLOSED SESSION**

Mayor Lieberman stated that no action had been taken during the closed sessions held earlier.

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

Vicky Padelford, Belmont Chamber of Commerce, announced that the Chamber would be sponsoring a breakfast meeting on April 9<sup>th</sup> and a mixer on April 24<sup>th</sup>, which would be a health theme.

## **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Braunstein stated that the City Council held a retreat on March 29<sup>th</sup>, which provided a good opportunity for dialog on a variety of items. He also mentioned that the student body at Notre Dame de Namur University hosted a barbecue on April 1, which was a great event.

Councilmember Wozniak invited the public to contribute to School Force, the Belmont-Redwood Shores School District's nonprofit foundation.

Mayor Lieberman congratulated Parks and Recreation Youth Commissioner Lauren Moissiy who was recently selected to be vice-chair. He announced that the Recyclery would be hosing Earth Day activities on April 22<sup>nd</sup>. He thanked the Police Department for providing shirts promoting the K-9 program.

## **AGENDA AMENDMENTS**

Councilmember Braunstein requested the removal of the Minutes of March 11<sup>th</sup> for separate consideration. He stated he did not recall making the number of motions that were represented in those minutes. City Clerk Cook recommended postponing action on these minutes until the next meeting, so she could check the recording for clarification.

## **ITEMS APPROVED ON CONSENT CALENDAR**

Mayor Lieberman stated that his continued recusal on the ordinance regarding 1000 South Road should be noted on the final adoption of this ordinance.

**Adoption of** Ordinance 1034 Establishing Time Limits for Completion of Construction and Amending Chapter 7 of the Belmont Municipal Code

**Adoption of** Ordinance 1035 Amending the R-4 Zoning on 1000 South Road and the R-1 Zoning on 950 Holly Road to Establish a Planned Development Zone and a Conceptual Development Plan at 1000 south Road/950 Holly Road (4-0, Mayor Lieberman recused)

**Approval of** Resolution 10000 Authorizing Issuance of a Purchase Order with Belmont Computer Systems for \$30,000 to Replace 19 Laptop Computers for Police Department

**Approval of** Resolution 10001 Consenting to San Mateo County Health Officer Enforcement of Orders and State Law Relating to Public Health Within the City

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the Consent Agenda was unanimously approved, as amended, by a show of hands (Mayor Lieberman recused on Ordinance 1035).

## **OLD BUSINESS**

### **Annual Review of Council Priority Calendar: Step Three - Adopting the Calendar**

Executive Assistant Stallings reviewed the previous steps taken by the Council in connection with the Priority Calendar. The ranking sheet provided in the staff report indicates which items will be able to be addressed in the coming year. She noted that required actions this evening include approval of the Project Description Forms (PDF's) and the Priority Calendar.

**ACTION:** On a motion by Councilmember Dickenson, seconded by councilmember Braunstein, the Project Description Forms (PDF's) were unanimously approved by a show of hands.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Dickenson, the Priority Calendar was unanimously approved by a show of hands.

**Council Protocols (continued from January 8, 2008)**

City Clerk Cook noted that this was a continuation of a discussion the Council held in January to discuss amendments to the Council Protocols. There were a number of areas still to be addressed.

City Clerk Cook clarified that as a result of the discussion held on January 8 regarding retention of the electronic archive of Council meetings, these would be maintained for ten years rather than three years, and the hard format (CD-ROM, DVD) would be kept for one year.

Council discussion ensued regarding turning over hard format of meetings to the Historical Society or the Library for reference. City Attorney Zafferano expressed concern that these items were City documents, and the City would lose control if they were given to another entity.

Council concurred to maintain the Council meetings in electronic format for ten years and to retain the hard format for one year.

Discussion ensued regarding the override process for new Priority Calendar items. Councilmember Feierbach noted that in previous years the Priority Calendar was reviewed twice a year, and now is only reviewed once per year, so a simple majority to override was appropriate.

Councilmember Dickenson expressed support for a super-majority vote to override, as he was concerned that new items would require additional City resources.

Councilmember Wozniak stated that flexibility was necessary, and she expressed support for a simple majority to override.

Councilmember Braunstein also expressed support for a simple majority, as a super-majority is an additional hurdle. He does not think it will be used often or abused.

Mayor Lieberman agreed with Councilmember Dickenson, but noted that there does not appear to be support to change from simple to super-majority.

Council concurred to leave the Priority Calendar override process as a simple majority.

Discussion ensued regarding public comments being addressed to the Council only, and not to staff or other members of the public. Council concurred to remove the language as recommended.

Council concurred to add verbiage to the Commission appointment process that addresses the fact that a candidate must receive at least three votes to be appointed.

Discussion ensued regarding email responses of Council.

Councilmember Feierbach expressed concern that it could violate the Brown Act if individual Councilmembers copied the full Council on responses.

Mayor Lieberman suggested that it be the Mayor should who sends an acknowledgement.

City Attorney Zafferno noted that the recommendation addressed acknowledgments only. He clarified that the public cannot be in violation of the Brown Act if they forward email responses from Councilmembers to other people. He expressed concern about the public being used as a conduit for information. Individual Councilmembers should be free to respond.

Council concurred to have the Mayor send an acknowledgment of receipt of emails.

Discussion ensued regarding Council correspondence. Councilmember Wozniak requested clarification as to whether this applied to press releases, email, and Council policy matters. She noted that the Year of the Community or the Mayor's meetings with the community were never communicated or discussed with the Council.

City Manager Crist noted that press releases, which are usually event-related, are in the purview of the City Manager's office.

Councilmember Braunstein stated that this issue was related to the Mayor's responsibility and latitude regarding communications, which is not addressed in the Protocols.

Councilmember Feierbach stated that each mayor is different. The City Manager should bring items to the City Council if there is an issue.

Mayor Lieberman acknowledged that the Mayor is an equal on the Council, but to the community, he or she represents the City Council. It is a leadership role and there is a need for leeway.

Discussion ensued regarding the use of City letterhead and resources for producing and mailing letters.

City Clerk Cook clarified that this portion of the Protocols addresses individual Councilmember letters on City letterhead. She noted that there is nothing that precludes a Councilmember from producing his or her own letterhead and sending letters using their own resources.

Councilmember Braunstein suggested that the role of the Mayor should be discussed at a future meeting.

Councilmember Dickenson stated there is a need to discuss how the Council works together, and he expressed concern about trying to capture too much in writing.

Councilmember Wozniak stated there is nothing in writing. It does not need to be detailed and could change each year based on who the Mayor is. She noted that not every Vice Mayor is appointed Mayor.

Mayor Lieberman suggested that staff poll other cities to learn what they have in writing regarding mayoral duties.

Discussion ensued regarding the selection of Mayor and Vice Mayor. Mayor Lieberman suggested inclusion of a rotation schedule or some other criteria for guidance.

Councilmember Feierbach noted that Belmont generally follows a default protocol, but that some Vice Mayors should not become mayor as do not always appropriately represent the City or the City Council.

City Clerk Cook clarified that at one time the Protocols formerly contained an automatic rotation schedule based on number of votes received, but it had to be changed when the 2003 Council election was canceled. The Protocols as they were written at the time would not have been applicable.

Council concurred not to modify the section of the Protocols addressing the selection of Mayor and Vice Mayor.

Council also concurred to have the City Manager canvass other cities regarding an outline of the role of Mayor, and to report back at a future meeting.

## **NEW BUSINESS**

### **Discussion & Direction Regarding Policies for Issuing Permanent Encroachment Agreements**

Public Works Director Davis reviewed the existing procedures for encroachment agreements, and noted that it contains a requirement that there be a public benefit in order to be approved. Permits can be approved administratively if the applicant is replacing an existing structure such as a fence or a wall. Council approval is required for any request that proposes to encroach beyond that space. These details are not included in the existing ordinance, and staff proposes to amend the ordinance to include this verbiage.

In response to Council questions, Public Works Director Davis clarified that fees apply both to administrative and City Council-approved encroachments. He also clarified that the existing ordinance advises the applicant that the City could take the property back if needed in the future.

Mayor Lieberman suggested that consistency with adjacent properties be a basis for determining approvals to encroachment agreements.

Public Works Director Davis noted that the City often seeks abatement on illegal encroachments due to safety reasons. He noted that applicants can ask the City to vacate or sell the right of way. He clarified that many streets in Belmont are not linear, and there are often too many parameters to be able to use consistency with adjacent properties as a criteria determining approval.

Council concurred to modify the ordinance as proposed. Staff clarified that this would require a future public hearing.

### **Annual Tree Report**

Parks and Recreation Interim Co-Director Ourtiague noted that this is the first annual tree report. The Parks and Recreation Commission held its first meeting as the Tree Board in February, and intends to meet quarterly. Input and outcomes will be reported through the new Green Advisory Committee, and the Tree Board will provide input on proposed revisions to the tree ordinance.

Parks and Recreation Interim Co-Director Ourtiague stated that a special tree revenue fund has been established into which monies from new projects will be placed. Expenditures from this fund are intended to mitigate the aging and loss of trees on City property and public right of way. He noted that Belmont earned Tree City, USA status, but revenues into the special fund are not meeting the \$2 per capita required to maintain that status.

Parks and Recreation Interim Co-Director Ourtiague outlined projects under way or completed this year, including planting of trees in the Cipriani Dog Park, and the annual tree giveaway program. He described the two recent cases of sudden oak death at Waterdog Lake, and noted the City would be hosting a workshop in May on this topic. Future projects include planting of trees in the Ralston Avenue median



between Pullman Avenue and Cipriani Boulevard. The Tree Board supports a tree-planting program, and other areas within the public right-of-way will need to be identified.

Councilmember Wozniak proposed that an Arbor Society be created to address the shortfall in the budget. Parks and Recreation Interim Co-Director Ourtiague responded that there will be an opportunity to discuss this issue during the upcoming budget process. He clarified that some of the existing programs such as the tree giveaway or the Arbor Day tree planting could potentially qualify as an in-kind funding contribution.

## **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

### **Discussion regarding potential joint meeting with the Planning Commission on April 29, 2008**

Community Development Director de Melo stated that it has been several years since the City Council and the Planning Commission held a joint meeting. He noted that there is a fifth Tuesday in April, which presents an opportunity for the two groups to meet. An agenda would need to be developed. Six of the seven Planning Commissioners are available to meet that evening.

Council concurred to hold the joint meeting and that it be televised.

### **Discussion and Direction regarding pending ordinance revision process**

City Attorney Zafferano stated that 14 of the 33 chapters of the Belmont Municipal Code have been revised over the course of the past ten years. This matter was discussed at the recent City Council retreat in March. The Council needs to prioritize the list of pending ordinances, which he reviewed. One limiting factor is City Council meeting time, since any new or revised ordinance requires a public hearing.

City Attorney Zafferano clarified that the sign ordinance will likely require the services of a consultant, since there is considerable work involved. He outlined ordinances on which individual staff members or departments could take the lead. Some ordinances are more time sensitive than others. He clarified that the sewer rate hearing is already scheduled for May.

In response to Council questions, City Attorney Zafferano clarified that enabling the Police Department to tow cars would be a lengthy process. He suggested that the transit occupancy tax issue not be

addressed until the legal issues surrounding it are determined. He outlined areas of city codes that are required in real estate disclosures, and he noted that the law authorizes the city to enact a requirement for the disclosure of code compliance issues at time of property sale.

Council completed their ballots indicating individual priorities. City Attorney Zafferano stated he would calculate the results and report back later in the meeting.

(This item continued.)

**RECESS: 9:40 P.M.**

**RECONVENE: 9:45 P.M.**

**Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Dickenson noted that a recently scheduled Harbor Industrial Association meeting had been canceled. The Economic Development Committee discussed ongoing projects.

Councilmember Braunstein stated he attended a portion of the recent Finance Commission meeting, and asked the City Treasurer to comment.

City Treasurer Violet reviewed the recent Finance Commission meeting discussion. The primary upcoming topic for the Commission will be the 2008-09 budget review.

Mayor Lieberman outlined several upcoming meetings of various committees. He noted that because he lives near the boundary of the Notre Dame de Namur University (NDNU) campus, he will not be able to participate as the delegate to the NDNU Advisory Board, and recommended that Councilmember Braunstein, as alternate, serve in his place.

Council concurred to have Councilmember Braunstein serve as delegate to the NDNU Advisory Board and to leave the alternate position vacant for the remainder of the year.

### **Continued Discussion and Direction regarding pending ordinance revision process**

City Attorney Zafferano stated that the following existing ordinances were ranked in the top four for revision: 1) sign ordinance, 2) business license tax, tied for 3<sup>rd</sup>) campaign contributions and parking, and 4) animal control. He noted that the following proposed new ordinances were ranked in the top four: 1) excessive police calls, 2) code compliance upon property sale, 3) dedication of park/open space, 4) regulation of vacant property.

### **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

#### **Consideration of Resolution and/or letter of support for Assembly Joint Resolution 52 related to federal truck size and weight limits (Mayor)**

Mayor Lieberman stated that existing legislation prohibiting triple trailers on California highways was set to expire, and a request had been received for a letter and/or resolution to support new legislation extending the prohibition. He noted that the truck industry supports removal of the prohibition.

Council concurred to send a letter at this time expressing the Council's support for the continued ban, and to place this matter on a future agenda for more information and to consider a resolution in support of the prohibition.

#### **Discussion regarding elimination of the use of plastic water bottles at public meetings (Dickenson)**

Councilmember Dickenson stated that energy is used to produce and dispose of plastic water bottles. He would like to eliminate the use of such bottles during public meetings. He clarified that it is not his intent to outlaw the use of bottled water elsewhere in City Hall.

Councilmember Feierbach stated she supports this proposal, but expressed concern regarding the presence of chloramines in tap water, if that is the alternative to bottled water.

Councilmember Wozniak expressed support for the ban, and expressed concern regarding how to obtain water during meetings.

City Manager Crist stated that staff could report back to Council with options. Council concurred to have this matter placed on a future agenda for discussion.

**Discussion and Direction regarding letter of support for Human Rights Torch Relay (Mayor)**

Mayor Lieberman stated that a request had been made for a letter from the City Council in support of the Human Rights Torch Relay. He noted that he supports this issue personally, but it is likely beyond a Belmont issue. He will not write a letter unless Council concurs.

Councilmember Dickenson stated that if the issue is addressing human rights, he would support it. He expressed concern regarding the aggressive activities of protestors of the Olympic torch run, and it is difficult to determine who is or is not involved in those activities. He is uncomfortable identifying this issue with China and the Olympic Games.

Councilmember Wozniak expressed support for human rights. She is not familiar with the organization making the request of the letter, and does not support the Human Rights Torch Relay for the same reason.

Councilmember Braunstein stated he is unclear to whom and where the letter is to be sent. The tenor of the letter is good, and this is an important issue. He also expressed concern that it is unknown who is involved in this group and in the activities.

Council concurred not to send a letter as requested.

**ADJOURNMENT** at this time, being 10:10 P.M.

**Cook  
Belmont City Clerk**

**Terri**